



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT NAGPUR, NAGPUR.

...

CRIMINAL WRIT PETITION NO. 681/2023

Ramesh s/o Gulabrao Karemore

.. Petitioner/s

versus

State of Maharashtra

Th: PSO New Kamptee and another

.. Respondent/s

.....
Mr. S.S. Meshram, Advocate for the petitioner

Ms. Shamsi Haider, APP for Respondent No. 1
.....

CORAM: ANIL L. PANSARE, J.

DATED : 7th September, 2023.

PC:

Heard.

2. Challenge is to the order dated 2nd September, 2023 passed by the learned Judicial Magistrate, First Class, Kamptee Dist. Nagpur, whereby the application filed by the respondent no.2, under section 156(3) of the Code of Criminal Procedure, 1973 (in short, 'the Code'), has been allowed and the PSO, New Kamptee Police Station is directed to investigate the complaint in terms of Section 173 of the Code.

3. Briefly stated the facts are: The respondent no.2 had purchased a Tipper bearing registration No. MH-40 BL.7833 from the petitioner and paid the entire consideration amount, and updated RTO documents in his name. The respondent no.2 claims that the petitioner by black-mailing him for obtaining more amount and threatening him of lodging a false FIR. The petitioner, in fact, has lodged FIR against the respondent no.2 vide Crime No.230/2023 for the offences punishable u/ ss. 406, 420, 425, 467, 468 and 471 of the IPC.

4. It is the case of the petitioner that since the police did not take any action, he filed the complaint. The learned Magistrate having gone through the material has applied his mind and found that there exists a *prima facie* case for investigation.

5. Mr.S.S.Meshram, the learned counsel for the petitioner submits that the respondent no.2 has without any material and with the sole intention to neutralize the FIR filed by the petitioner, has moved the application. This contention, however, will be dealt with by the Investigating Officer who will investigate the crime and if no material is found against the petitioner, will file a final report, in terms of Sec.169 of the Code. However, considering the fact that the complaint discloses cognizable offence, the learned Magistrate has passed the impugned order, which cannot be said to be perverse. As such, I am not inclined to interfere with the impugned order under Art.227 of the Constitution. The Writ Petition is dismissed.

[ANIL L. PANSARE, J.]